

REMARKS

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.113, are respectfully requested.

Status

As is correctly reflected in the Office Action Summary, Claims 29-31, 33-36, and 38-55 were pending. Claims 29-31, 33-36, and 38-55 stand rejected.

By the foregoing amendments, Claims 29-31, 34-36, 40, 42, 44, 46, 48, and 53-55 have been canceled. Accordingly, Claims 33, 38, 39, 41, 43, 45, 47, 49, 50, 51, and 52 are pending.

Summary of Amendments

By the foregoing amendments, Claims 29-31, 34-36, 40, 42, 44, 46, 48, and 53-55 were canceled without prejudice or disclaimer to Applicants filing one or more continuing applications directed to the previously-presented subject matter contained therein.

Also by the foregoing amendments, Claims 33 and 38 were amended to be independent claims. Support for these amendments may be found at least in former Claims 33 and 38, and the claims from which they depended, *i.e.*, Claims 29 and 34, respectively. Accordingly, no new matter has been added.

Further by the foregoing amendments, Claims 39 and 41 were amended to depend from amended Claim 33. Support for these amendments may be found at

least at former Claims 29, 33, 39, and 41. Accordingly, no new matter has been added.

Further by the foregoing amendments, the linguistic style of Claim 49 was amended in the manner suggested by the Examiner. No new matter has been added.

Finally by the foregoing amendments, Claim 52 was amended to depend from amended Claim 38. Support for this amendment may be found at least at former Claims 34, 38, and 52. Accordingly, no new matter has been added.

Claim Objection

Claim 54 had been objected to for being a purported duplicate of Claim 30. Not to acquiesce in the Examiner's objection, but solely to facilitate prosecution, by the foregoing amendments Applicants have canceled Claim 54. Accordingly, the objection has been rendered moot.

Rejections Under 35 U.S.C. § 112, First Paragraph – Enablement

Claims 29-31, 34-36, and 39-53 were rejected under 35 U.S.C. § 112, First Paragraph, as purportedly not enabled. *See Official Action mailed September 10, 2004, Pages 2-6, ¶ 7.* This rejection is respectfully traversed.

Not to acquiesce in the Examiner's rejection, but solely to facilitate prosecution, Applicants have amended the remaining Claims to require admittedly-enabled SEQ ID NO:2 and SEQ ID NO:3. *See Official Action mailed September 10,*

2004, Page 2, Last Line. Applicants believe these amendments have rendered moot the outstanding enablement rejection and respectfully request withdrawal thereof.

Rejections Under 35 U.S.C. § 112, First Paragraph – Written Description

Claims 29-31, 34-36, and 39-53 were rejected under 35 U.S.C. § 112, First Paragraph, as purportedly lacking sufficient written description. *See Official Action mailed September 10, 2004, Page 6, ¶ 8.* This rejection is respectfully traversed.

As explained above with respect to the enablement rejection, not to acquiesce in the Examiner's rejection, but solely to facilitate prosecution, Applicants have amended the remaining Claims to require fully-described SEQ ID NO:2 and SEQ ID NO:3. Applicants believe these amendments have rendered moot the outstanding written description rejection and respectfully request withdrawal thereof.

Rejections Under 35 U.S.C. § 112, Second Paragraph – Indefiniteness

Claims 49-51 were rejected under 35 U.S.C. § 112, Second Paragraph, as purportedly indefinite. *See Official Action mailed September 10, 2004, Pages 6-7, ¶ 9.* This rejection is respectfully traversed.

Not to acquiesce in the Examiner's rejections, but solely to facilitate prosecution, Applicants have amended Claim 49 to read "plant cell or plant tissue," as recommended by The Examiner. Applicants believe the foregoing amendments have rendered moot the indefiniteness rejection and respectfully request withdrawal thereof.

CONCLUSION

From the foregoing, further and favorable consideration in the form of a Notice of Allowance is respectfully requested and earnestly solicited.

In the event that there are any questions relating to this Amendment and Reply After Final Rejection, or the application in general, it would be greatly appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,
BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: December 9, 2004

By: 

Erin M. Dunston
Registration No. 51,147

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620